

AGENDA
Interested Persons Meeting
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814 (916) 322-5660
Wednesday October 26, 2011 at 10:00 a.m.

- 1. Revisions to the Rule defining General Purpose Committees and Primarily Formed Committees**
 - 2. A More Clear Rule for Reporting Contributions to Multi-Purpose Groups**
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Staff of the Fair Political Practices Commission will be holding an interested persons meeting on the two subjects above. The draft regulations are available for review and comment at <http://www.fppc.ca.gov/index.php?id=450>.

1. General Purpose Committees and Primarily Formed Committees. The first half of the meeting will be a discussion of draft revisions to the rule defining general purpose committees and primarily formed committees. Revisions to Regulation 18247.5 are being considered to make the determination of type of committee easier, while still maintaining a clear rule. Following suggestions from the regulated community, existing regulation 18247.5 may be divided into two regulations, one for general purpose committees and one for primarily formed committees.

General Purpose Committees. Broadly speaking, general purpose committees are ongoing committees that support multiple candidates and measures in successive elections. Associations, political action committees, political party committees, as well as major donors under 82013(c) and entities and individuals making independent expenditures under 82013(b) are all considered general purpose committees.

The statute in Section 82027.5 divides general purpose committees up into state, county, and city committees, but does not have a specific standard for when committees qualify as state, county or city. Whether a committee is state, county or city, obviously determines who their filing officer is, i.e., *where* the committee files its campaign reports, and bears on whether a city or county's contribution limits or other additional rules apply to the committee.

Following guidance received at the last Commission hearing on this subject, the draft regulation will have the effect of stabilizing more major donor committees as state level filers, resulting in continuing electronic disclosure of their activity. Major donors' jurisdiction for filing will not shift as often under the draft regulation. In addition, a committee will be considered a city or county committee if more than 70 percent of their activity is at the city or

county level. Other committees will default to state committees. The review for determining type of committee is simplified.

Primarily Formed Committees. Broadly speaking, a primarily formed committee is a committee formed or existing to support a single candidate or measure in a specific election. (The statutory definition was broadened to include two or more measures on the same ballot or a specific group of local candidates on the same ballot.) A committee running a ballot measure, or a committee formed to oppose a particular candidate in a particular election is “primarily formed.” The statute in Section 82047.5 defines a “primarily formed” committee, but again does not have a standard for when a committee qualifies as primarily formed.

Having a clear rule for when a committee qualifies as primarily formed is important because special requirements apply to primarily formed committees. A primarily formed committee files in the jurisdiction where the candidate or measure that it is primarily formed to support normally files. In addition, a primarily formed committee must automatically file preelection statements under Section 84200.5 and 84200.7 or 84200.8; must comply with the committee name and identification of \$50,000 donors requirements of Sections 84107, 84503 and 84504, if supporting or opposing a ballot measure; must file online 90-day reports under Section 85309 if supporting or opposing a state ballot measure; and is subject to mandatory audit if a state committee.

The draft revision provides that a committee will be considered primarily formed if more than 70 percent of the committee’s contributions and expenditures are for a specific candidate or measure during the 24 months preceding the candidate or measure’s election. The draft incorporates several improvements suggested by the regulated community. First, a provision has been added so that an existing general purpose committee will not be required to change status to “primarily formed” for a candidate or measure unless it has met the 70 percent activity standard, *and* a high dollar amount of activity. In response to another comment from the regulated community, the draft specifies that a committee that was primarily formed to support a ballot measure, but after the election goes on to support other future measures, may take the old ballot measure and top donor information out of its name at the semi-annual filing date after the election. Third, to stabilize a committee’s status, a provision is added stating that a committee that is or becomes primarily formed within 90 days prior to an election shall keep that filing status throughout the election. And finally, under the new time frame, measuring the committee’s activity during the 24 months preceding the candidate or measure’s election, a committee will never qualify as “primarily formed” after the date of the election.

2. Rule for Reporting Contributions to Multi-Purpose Groups. The second half of the meeting will be a follow-up on an interested persons meeting held on April 11, 2011 to elicit further public input on proposed Commission action to implement a recommendation by the Chairman’s Task Force on the Political Reform Act. The final report of the Chairman’s Task Force, presented to the Commission at its January 2011 meeting, included a recommendation that the Commission consider a regulation on campaign reporting by “multi-purpose” organizations. This recommendation is found in Part II, paragraph 3.E. on page three of the final report and reads as follows:

“E. Revise FPPC rules for campaign filings by multi-purpose organizations so that there is a single standard and clear transparency in reporting the donors to the organizations. We recommend that the Commission consider a last-in, first-out (“LIFO”) formula for identifying a multi-purpose organization’s donors.”

The Act defines the term “contribution” (in pertinent part) as a payment made for a political purpose, which can include many kinds of payments to a multi-purpose organization – for example, payments responding to an appeal soliciting “donations” to fund an advertisement supporting a measure in an upcoming election. By contrast, payments to such groups that are not made for a political purpose, and are not used for a political purpose, are not “contributions.”

Staff understands this Task Force recommendation as calling for the creation of a clear accounting rule to be used for identifying donations to multi-purpose groups that are classified as “contributions” under the Act’s “one bite of the apple” provision at Regulation 18215(b)(1). The Commission would therefore welcome public discussion on the following topics:

- What kinds of organizations should be covered by the proposed regulation? Are they limited to non-profit organizations, such as IRC Section 501(c) corporations, or do other forms of multi-purpose groups also raise and spend money to influence state and local elections in a manner that would trigger reporting obligations under Regulation 18225(b)(1)?
- Will multi-purpose groups with reporting obligations under Regulation 18215(b)(1) accurately identify and report contributors supporting their political activities by using a LIFO accounting method? If not, what alternative would promote more accurate reporting?
- Do differences in organization, membership, size, sophistication, or other characteristics or circumstances complicate the use of a single clear rule for identifying contributors to various kinds of multi-purpose groups?
- If the answer to the preceding question is “yes,” how can such a rule be framed to yield accurate identification of contributors to all multi-purpose groups with reporting obligations? Are there alternative rules, or sets of rules, that would ensure that every multi-purpose group knows and will apply an accounting method that properly identifies the group’s reportable contributors?

You may participate in this interested persons meeting in person, or in teleconference by calling (888) 751-0624; access code 723284. For questions about participating by phone, please contact Virginia Latteri-Lopez at (916) 322-5660. The Commission invites written comments addressing these topics. You may also contact Senior Commission Counsel Hyla P. Wagner (with questions or comments on the first topic) or Senior Commission Counsel Lawrence T. Woodlock (with questions or comments on the second topic) at (916) 322-5660.